REMARKS

The claims have been amended above solely for the purpose of placing the claims of this European-origin application in a form and format that is more in accordance with U.S. practice and to correct other formal matters and errors, including:

- "Use" claims 4, 6 and 8 have been cancelled, as not being in a format generally accepted under U.S. practice.
- In claims 1 and 3 the reference to "and [as well as] pharmaceutically acceptable salts" has been changed to "or a pharmaceutically acceptable salt" thereof.
- In claims 5 and 7 the reference to "a compound of formula I" has been amended to refer to "a compound of formula I or formula IA" according to any one of claims 1 to 3. Although formula IA falls within the scope of formula I and thus the claim was correct as originally presented, it is believed that additionally reciting formula IA (set forth in claim 3) will avoid possible confusion.
- New method claim 9 has been added. Support is found, *e.g.*, in original claims 7 and 8.

Additionally, the recitations of "and solvates thereof" has been removed from claim 1 as being unnecessary, superfluous and possibly confusing inasmuch as the claims to the compounds *per se*, or pharmaceutically acceptable salts thereof, already encompasses the various forms that such compounds and salts may take, such as whether crystalline or amorphous, whether or not in the form of a hydrate or solvate, or in any polymorphic form. The removal of the "solvate" recitations therefore, is not intended to change the scope of the claims in any respect and, in fact, does not do so.

More specifically with respect to solvates, a solvate, in the pharmaceutical context as defined in Stedman's Medical Dictionary (and similarly in the PDR Medical Dictionary), is simply "a nonaqueous solution or dispersoid in which there is a noncovalent or easily reversible combination between solvent and solute, or dispersion means and disperse phase; when water is the solvent or dispersion medium, it is called a hydrate." The solvent molecule of a solvate has been described as a species introduced into the crystal and no part of the organic host molecule is left out or replaced (see, *e.g.*, West, Solid State Chemistry at page 358). Thus, whether a chemically defined compound is or is not noncovalently associated with a solvent does not affect

the scope of the claim to the compound, *per se*, any more than placing such compound in solution would remove the compound from the scope of such claim. Therefore, the alternative recitation of "or a solvate ... thereof" is seen as being entirely superfluous, and neither expands nor contracts the scope of these claims. In other words, a claim to a novel compound *per se* encompasses such compound, regardless of its state of solvation or hydration, or its polymorphic form, and regardless of whether it is a racemic mixture or a resolved enantiomer. The removal of this superfluous and possibly confusing recitation therefore does not, and is not intended to, expand or limit the scope of these claims.

The above amendments are believed to be appropriate in all respects and add no new matter. Accordingly, entry of these amendments prior to the first Action in this application is respectfully requested.

Except for issue fees payable under 37 C.F.R. §1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. §§1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account No. 50-0310. This paragraph is intended to be a **CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 C.F.R. §1.136(a)(3).

Respectfully Submitted,
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